IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE KURIAN JOSEPH
&
THE HONOURABLE MR. JUSTICE K.T. SANKARAN

FRIDAY, THE 6TH JULY 2007 / 15TH ASHADHA 1929

R.P. NO. 461/2007 IN F.A.O. NO. 39/2007

AGAINST THE ORDER IN F.A.O NO. 39/2007

REVIEW PETITIONERS/APPELLANTS/PETITIONER AND 3RD RESPONDENT: 2ND JUDGMENT DEBTOR

1. T.K. RADHAKRISHNAN, S/O. RAGHAVAN PILLAI, RESIDING AT PELLAKUDA, PULLUR VILLAGE, HOSDURG TALUK, THOUGH POWER OF ATTORNEY HOLDER SHOBHA RADHAKRISHNAN, WIFE OF T.K. RADHAKRISHNAN, PARTNER, EYE CARE OPTICS, NOTH KOTTACHERY, BALLA VILLAGE, HOSDURG TALUK, KANHANGAD P.O.,

2. SHOBHA RADHAKRISHNAN, WIFE OF T.K. RADHAKRISHNAN, PARTNER, EYE CARE OPTICS, NORTH KOTTACHERY, BALLA VILLAGE, HOSDURG TALUK, KANHANGAD P.O.,

BY ADV. SRI.K.M. MOHAMMED KUNHI
SRI. P.K. NIJOY

RESPONDENTS/RESPONDENTS/DECREE HOLDER & JUDGMENT DEBTORS:

1. CANARA BANK, KANHANGAD BRANCH, KANHANGAD P.O., HOSDURG TALUK, KASARGOD DISTRICT REPRESENTED BY ITS SENIOR MANAGER.

2. EYE CARE OPTICS, A PARTNERSHIP FIRM REPRSENTED BY ITS MANAGING PARTNER, T.K. RADHAKRISHNAN, S/O. RAGHAVAN PILLAI EYE CARE OPTICS.

3. JANEESH P.V., S/O. P.V. KRISHNAN, RESIDING AT C.K. HOUSE, KANNAMKULAM KUNNU, PALLIKERE VILLAGE, HOSDURG TALUK, KASARAGOD DISTRICT.

BY ADV. SRI.T.K. VIPINDAS for R3

THIS REVIEW PETITION HAVE COME UP FOR ADMISSION ON 06/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

KURIAN JOSEPH & K.T. SANKARAN, JJ

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R.P. NO. 461/2007

IN

F.A.O. NO. 39/2007

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Dated this the 6th day of July, 2007.

ORDER

Sankaran,J

F.A.O was disposed of by judgment dated 05.02.2007. As agreed by the parties, the appellants were directed to pay a sum of Rs.16 lakhs within three months from the date of judgment as a condition for setting aside the court auction sale. The appellants failed to deposit the amount within time. R.P No. 461/2007 was filed seeking to review the judgment by reducing the amount to be deposited and extending the time stipulated. An order dated 13.06.2007 was passed in the review petition directing the appellants to deposit Rs.5,00,000/- on or before 21.06.2007. It is submitted that a sum of Rs.7,00,000/- has been paid by the appellants, though not on 21.06.2007. It is also submitted by the counsel for the appellant that Rs.9 lakhs is paid today and that the total amount as directed by this Court in FAO judgment has been paid. The counsel for the auction purchaser acknowledged receipt of Rs.9 lakhs. Accordingly, R.P is disposed of with the following manner:

2. The disposal of the FAO in the manner indicated therein shall stand confirmed except that the period for payment of Rs.16,00,000/-(Rupees sixteen lakhs) is extended till 06.07.2007. Since the amount has been paid, E.A.No.19/2006 in E.P. No. 70/2001 shall stand allowed and the court auction sale shall stand set aside. Since the sale is set aside, the sale certificate shall also stand set aside. The appellants shall refund the stamp duty to the auction purchaser within one month.

The R.P is disposed of.

KURIAN JOSEPH, JUDGE.

K.T. SANKARAN, JUDGE.

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